

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2010-XXXX
AMENDING TIME SCHEDULE ORDER NO. R5-2005-0140
(NPDES PERMIT NO. CA0085146)

BEAR VALLEY WATER DISTRICT
BEAR VALLEY WASTEWATER TREATMENT PLANT
ALPINE COUNTY

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board) finds that:

1. On 20 October 2005, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order No. R5-2005-0139 and Time Schedule Order (TSO) R5-2005-0140, prescribing waste discharge requirements and time schedules for the Bear Valley Wastewater Treatment Facility, Alpine County. WDR Order No. R5-2005-0139 was subsequently amended on 11 September 2008 by Resolution No. R5-2008-0141. For the purposes of this Order, the Bear Valley Water District is hereafter referred to as "Discharger" and the Bear Valley Wastewater Treatment Facility is hereafter referred to as "Facility."
2. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service to the community of Bear Valley, Bear Valley Ski Resort, and Lake Alpine/United States Forest Service. The Facility consists of a comminutor, biological treatment by aerated ponds, disinfection through chlorination, and an effluent storage reservoir. Secondary treated municipal wastewater is discharged by spray irrigation during summer months with seasonal discharges to an unnamed tributary of Bloods Creek when there is sufficient flow to allow at least a 20:1 dilution. Bloods Creek is a water of the United States.
3. Since the adoption of WDR Order No. R5-2005-0139 and TSO No. R5-2005-0140, the Discharger has not discharged to surface waters. The Discharger credits the ability to maintain all discharges on land to comprehensive efforts made in maximizing land disposal capability of the Facility, and the absence of significantly wet years.
4. On 15 December 2009, the Discharger submitted justification for an extension of the time schedule for compliance with copper. The primary justification for a time extension is the lack of effluent sampling data for the periods most relevant to documenting effluent characteristics. The lack of data and/or the inability to collect effluent samples is attributed to the cold winter conditions and restricted access to the sampling sites. The Discharger indicated that the requested time extension is as short as practicable, and that full compliance by 22 May 2010 will not provide adequate time for the Discharger to implement actions for the Facility to consistently comply with the final effluent limits for copper. The Discharger also maintains that diligent efforts are being made to quantify pollutant levels in the discharge and that the source control

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measures are currently underway to achieve compliance with final effluent limitations. The Discharger believes that with recent upgrades and modifications to the sampling methods, the required monitoring studies can be performed in compliance with WDR Order No. R5-2005-0139. Therefore, this Order amends TSO R5-2005-0140 to provide a time schedule for the Discharger to develop, submit, and implement methods of compliance or to construct necessary treatment facilities to meet the new effluent limitations for copper by 1 March 2015.

5. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.), in accordance with CWC section 15321 (a)(2), Title 14, of the California Code of Regulations.
6. The Central Valley Water Board has notified the Discharger and interested agencies and persons of its intent to amend both the WDRs and the Time Schedule Order for this discharge and has provided them with an opportunity to submit their written views and recommendations.
7. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday (including mandatory furlough days), the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED THAT:

Time Schedule Order No. R5-2005-0140 (NPDES No. CA0085146) is amended as shown in underline/strikeout format in Attachment 1 to this Order.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on XX March 2010.

PAMELA C, CREEDON, Executive Office

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ATTACHMENT 1

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2005-0140-01
As Amended by Order No. R5-2010-XXXX

REQUIRING THE BEAR VALLEY WATER DISTRICT BEAR VALLEY WASTEWATER TREATMENT FACILITY ALPINE COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO R5-2005-0139
(NPDES NO. 0085146)

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Board) finds that:

1. On 24 20 October 2005, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. R5-2005-0139, prescribing waste discharge requirements for the Bear Valley Water District (hereafter Discharger), Bear Valley Wastewater Treatment Plant, Alpine County.
2. Waste Discharge Requirements (WDRs), Order No. R5-2005-0139, contains Effluent Limitation No. B.1, which reads, in part, as follows:

"B. Effluent Limitations - Discharge to Bloods Creek :

1. *Effluent discharged to Bloods Creek to occur only when necessary, and shall not exceed the following limits unless otherwise specified per footnote 6:*

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Iron	$\mu\text{g/L}$	300	---
	lbs/day ¹	2.5	
Manganese	$\mu\text{g/L}$	50	---
	lbs/day ¹	0.42	---
Copper ⁶	$\mu\text{g/L}$	0.95	1.9
	lbs/day ¹	0.008	0.04

1 The mass limits (lbs/day) under the Monthly Average column is based on the concentration limit multiplied by the monthly average flow 1.0 mgd and the unit conversion factor of 8.34

6 Full Compliance with this limitation is required by 22 May 2010 only upon approval of a compliance justification in accordance with Provision D5, otherwise full compliance is required by 1 February 2006.

3. The Final Effluent Limitations for copper become effective on 22 May 2010. Order No. R5-2005-0139 contains the following interim limits that are in effect through 21 May 2010.

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>
<u>Copper</u>	<u>µg/L</u>	<u>16.3</u>

4. The effluent limitations specified in Order No. R5-2005-0139 for *iron*, and *manganese* are based on Basin Plan water quality objectives and copper is based on water quality criteria contained in the CTR. Effluent limitations for these pollutants are new limitations that were not prescribed in the Land Disposal Requirements, Order No. 5-01-208.

NEED FOR TIME SCHEDULE ORDER (TSO) AND LEGAL BASIS

5. California Water Code (CWC) Section 13300 states: *"Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements."*
6. Federal regulations, 40 CFR Part 122.44 (d)(1)(i), require that NPDES permit effluent limitations must control all pollutants which are or may be discharged at a level which will cause or have the reasonable potential to cause or contribute to an in-stream excursion above any State water quality standard, including any narrative criteria for water quality. Beneficial uses, together with their corresponding water quality objectives or promulgated water quality criteria, can be defined per federal regulations as water quality standards.
7. In accordance with CWC Section 13385(j)(3), the Regional Board finds that, based upon results of effluent monitoring and statistically projected effluent concentrations, the Discharger is not able to consistently comply with the new effluent limitations for *iron, and manganese, and copper*. These limitations are new requirements that become applicable to the Order after the effective date of adoption of the waste discharge requirements, and after July 1, 2000, for which new or modified control measures are necessary in order to comply with the limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
8. Immediate compliance with these new effluent limitations for *iron, and manganese, and copper* is not possible or practicable. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance. ~~as soon as possible, up to a maximum duration of 5 years, which is the maximum term of any NPDES permit.~~
9. In the past, after a wet year, the Discharger has entered the winter season with a substantial amount of water still in its storage reservoir from the previous winter. Consequently, discharges of effluent from the storage reservoir to an unnamed

tributary of Bloods Creek have been necessary at the end of some snow melt seasons. However, since the adoption of WDR Order No. R5-2005-0139 the Discharger has not had the need to discharge to Bloods Creek due to absence of significantly wet years. The Discharger also states that effluent and receiving water monitoring studies could not be performed, as required in WDR Order No. R5-2005-0139, because access to sampling sites was restricted due to cold winters. Significant ice cover over the storage reservoir and treacherous conditions at the receiving water monitoring stations have reportedly affected scheduled monitoring of both effluent and the receiving water. The Discharger also claims that little or no sampling data is primarily due to the lack of direct oversight of staff responsible.

10. In 2006, as required in Order No. R5-2005-0139, the Discharger submitted a Copper Corrective Action Plan and Implementation Schedule. The plan provided for monitoring and constituent reduction alternatives, and review of treatment alternatives.
11. On 15 December, the Discharger submitted justification for an extension of the compliance schedule for copper. The Discharger's submittal included (a) documentation that diligent efforts are being made to quantify pollutant levels in the discharge and the sources of the pollutant in the waste stream; (b) documentation of source control measures and/or pollution minimization measures efforts currently underway; (c) a proposal for additional or future source control measures, pollutant minimization actions, or waste treatment (i.e., facility upgrades) with projected time schedules to achieve compliance with final effluent limitations; and (d) a demonstration that the proposed schedule is as short as practicable. The Discharger also claims that the full compliance by 22 May 2010 will not provide adequate time for the Discharger to conduct additional monitoring studies to confirm compliance with the final effluent limitations in WDR Order No. R5-2005-0139 can be attained with current facilities and/or to complete necessary upgrades to the Facility. The Discharger believes that with additional time and the recent upgrades and modifications to the sampling methods, the required monitoring studies can be performed in compliance with the Monitoring and Reporting Program requirements of WDR Order No. R5-2005-0139.
12. This Order provides a time schedule for the Discharger to develop, submit, and implement methods of compliance, including but not limited to completing a mixing zone analysis, change water supplies, utilize pollution prevention activities, or construct necessary treatment facilities to meet these new effluent limitations.

Mandatory Minimum Penalties

13. CWC Section 13385(h) and (i) require the Regional Board to impose mandatory minimum penalties (MMPs) upon dischargers that violate certain effluent limitations. CWC Section 13385(j) exempts certain violations from the mandatory minimum penalties. CWC Section 13385(j)(3) exempts the discharge from mandatory minimum penalties "where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all the [specified] requirements are met."

14. ~~Compliance with this TSO exempts the Discharger from mandatory penalties for violations of effluent limitations for iron, and manganese, only, in accordance with CWC Section 13385(j)(3). California Water Code Section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to Section 13263.3 of the California Water Code. Therefore, a pollution prevention plan will be necessary for iron, and manganese in order to effectively reduce the effluent concentrations by source control measures. By statute, a Cease and Desist Order or Time Schedule Order may provide protection from MMPs for no more than five years. Compliance with this Order exempts the Discharger from mandatory penalties for violations of the final effluent limitations for iron, manganese, and copper in accordance with CWC section 13385(j)(3). Protection from MMPs for the effluent limitations for iron and manganese begins on 20 October 2005 and may not extend beyond the compliance schedule listed in this Order (i.e., 1 October 2010). The Central Valley Water Board has not previously issued an Order to provide MMP protection from copper exceedance for this facility. Therefore, compliance with this Order exempts the Discharger from mandatory penalties for violations of the final effluent limitations for copper in accordance with CWC section 13385(j)(3). Protection from MMPs for copper begins on XX March 2010 and may not extend beyond the compliance schedule listed in this Order (i.e., 1 March 2015).~~

15. Since the time schedule for completion of action necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim requirements and dates for their achievement. This time schedule does not exceed five years.

The compliance time schedule in this Order includes interim effluent limitations for *iron and manganese, and copper*. The interim effluent limitations are based on previous performance of the facility. For iron and manganese, the interim effluent limitations consist of a maximum daily effluent concentration derived using sample data provided by the Discharger, and applying statistical methodologies for estimating maximum concentrations identified in Chapter 3 of USEPA's Technical Support Document (TSD). Therefore, the interim daily maximum for each constituent is calculated by multiplying the maximum observed concentration by a factor of 7.4 from a 99% confidence level and 99% probability basis table (TSD Table 3.1), using the default coefficient of variation ($CV=\sigma/\mu$) of 0.6 (when data available is less than 10 samples) and number of samples ($n=2$, minimum number of samples available). For copper, the interim limit for copper in WDR Order No. R5-2005-0139 is reestablished in this Order.

16. On 24/20 October 2005 and on 17/18/19 March 2010, in Sacramento, California, after due notice to the Discharger and all other affected persons, the Board conducted a public hearing at which evidence was received to consider a Time Schedule Order under California Water Code Section 13300 to establish a time schedule to achieve compliance with waste discharge requirements.

~~17. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with California Water Code Section 15321 (a)(2), Title 14, of the California Code of Regulations. The issuance of this Order is not a "project" as defined by the California~~

Environmental Quality Act (Public Resources Code, Section 21000, et seq.) (CEQA), and does not have the potential to cause a significant adverse impact on the environment (Title 14 CCR section 15061(b)(3)). This Order enforces preexisting requirements to improve the quality of ongoing discharges that are part of the CEQA "baseline"; and includes interim effluent limitations to ensure that discharges do not increase above the CEQA baseline. Any measures to meet effluent limitations are the result of WDRs Order R5-2005-0139 and not this Order. Even assuming the issuance of this Order is a "project" within the meaning of CEQA, issuance of this Order is exempt from the provisions of in accordance with Water Code Section 13389, which exempts the adoption or modification of a NPDES Permit for an existing source. This Order only serves to implement a NPDES permit and is therefore exempt under Section 13389. The issuance of this Order is also exempt under Section 15321(a)(2), Title 14, California Code of Regulations (CCR).

18. Any person adversely affected by this action of the Board may petition the State Water Resources Control Board to review this action. The petition must be received by the State Water Resources Control Board, Office of the Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100, within 30 days of the date on which this action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED THAT:

1. Pursuant to California Water Code Section 13300, the Bear Valley Water District shall comply with the following time schedule to ensure compliance with the *iron*, and *manganese*, and *copper* effluent limitations contained in WDRs Order No. R5-2005-0139 as described in the above Findings:

<u>a. Task</u>	<u>Date Due</u>
Submit Method of Compliance Workplan/schedule	1 March 2006
Submit Pollution Prevention Plan (PPP) ¹ pursuant to Section 13263.3 of the Water Code for <i>iron</i> and <i>manganese</i>	1 June 2006
Progress Reports ²	1 January each year
Full compliance with effluent limitations for <i>iron</i> and <i>manganese</i>	1 October 2010
<u>b. Task</u>	<u>Date Due</u>
Submit Pollution Prevention Plan pursuant to CWC section 13263.3 of the water Code for <i>Copper</i>	<u>1 September 2010</u>

Progress Reports²

1 March each year

Full compliance with effluent limitations for copper

1 March 2015

¹ The PPP shall be prepared for all constituents listed above and shall meet the requirements specified in CWC Section 13263.3

² The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

2. The following interim effluent discharge limitations for *iron* and *manganese* shall be effective until **1 October 2010** and for copper until **1 March 2015** or when the Discharger is able to come into compliance, whichever is earlier:

<u>Constituents</u>	<u>Units</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>
<i>Iron</i>	$\mu\text{g/L}$	2738	---
	<i>lbs/day</i> ¹	23	---
<i>Manganese</i>	$\mu\text{g/L}$	644	---
	<i>lbs/day</i> ¹	5.4	---
<u><i>Copper</i></u>	$\mu\text{g/L}$	----	<u>16.3</u>

¹ Based upon an average discharge flow of 1.0 mgd.

3. If, in the opinion of the Executive Officer, the Bear Valley Water District fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement. If compliance with these effluent limitations is not achieved by the Full Compliance date of **1 October 2010** for iron and manganese and **1 March 2015** for copper, the discharge would not be exempt from the mandatory minimum penalties for violation of certain effluent limitations, and would be subject to issuance of a Cease and Desist Order in accordance with CWC Section 13301.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 20 October 2005 and amended by Order No R5-2010-XXXX on 17/18/19 March 2010.

THOMAS R. PINKOS, Executive Officer